Supreme Court, U.S.
FILED
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No. 03-790

IN THE

Supreme Court of the United States

SAFETY NATIONAL CASUALTY CORPORATION,

Petitioner,

v.

DOW CORNING CORPORATION,

Respondent.

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE EIGHTH CIRCUIT

PETITION FOR REHEARING

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Exhibit A – Correspondence of Petitioner's counsel addressed to the Court, dated February 24, 2004 ..... 1a

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Cases:

Green Tree Fin. Corp. v. Bazzle, __ U.S. __, 123 S. Ct. 2402 (2003) 1

Shook & Fletcher Asbestos Settlement Trust v. Safety Nat'l Cas. Corp., No. 03-1092, 2003 WL 22391526 (8th Cir. Oct. 21, 2003), *pet. for writ of certiorari docketed sub nom. Safety Nat'l Cas. Corp. v. Shook & Fletcher Asbestos Settlement Trust*, No. 03-1221 (filed Feb. 23, 2004) 1, 2

PETITION FOR REHEARING

Petitioner Safety National Casualty Corporation, for its Petition for Rehearing, states:

1. On March 1, 2004, the Court denied Safety's Petition for Writ of Certiorari.

2. Safety requests the Court to rehear this matter because of intervening circumstances following the docketing of its Petition on December 3, 2003.

3. On February 23, 2004, Safety filed a Petition for Writ of Certiorari in *Safety National Casualty Corporation v. Shook & Fletcher Asbestos Settlement Trust*, No. 03-1221. On February 26, 2004, the Court docketed Safety's Petition in No. 03-1221.

4. By letter dated February 24, 2004, Safety requested that its Petitions filed in Nos. 03-790 and 03-1221 be vided on the Court's calendar because the two cases, which address the same arbitration provision, present identical questions for the Court's review, including whether the decisions of the United States Court of Appeals for the Eighth Circuit in the two cases conflict with the Court's decision in *Green Tree Fin. Corp. v. Bazzle*, __ U.S. __, 123 S. Ct. 2402 (2003). A copy of Safety's correspondence of February 24, 2004, is attached to this Petition as Exhibit A.

5. Safety seeks rehearing because it is uncertain whether the Court considered, or had the opportunity to consider, Safety's request that Nos. 03-790 and 03-1221 be vided on the Court's calendar before denying Safety's Petition in No. 03-790 on March 1, 2004. Safety is concerned that if certiorari is denied in 03-790 but granted in 03-1221 inconsistent results will occur. Therefore, Safety requests the Court to rehear this matter so that this case may be considered by the Court with No. 03-1221 in light of Safety's request that this case be vided with No. 03-1221 on the Court's calendar.

Wherefore, Petitioner Safety National Casualty Corporation requests the Court to rehear the Court's Order of March 1, 2004, which denied Petitioner's Petition for Writ of Certiorari.

Respectfully submitted,

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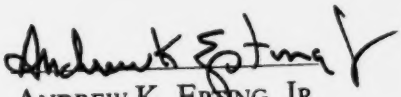
CERTIFICATE OF GOOD FAITH

The undersigned hereby certifies that this petition for rehearing is restricted to the grounds specified in Rule 44.2 of the Rules of the Supreme Court and is presented in good faith and not for delay.



ANDREW K. EPTING, JR.